

Jobs Creation Committee

Minutes from April 21, 2016

Call to Order & Establishment of Quorum

The Jobs Creation Committee (JCC) meeting was called to order by Chair Deborah Frye on Thursday, April 21st, 2016 in Room 401, Indiana State Library. The meeting convened at 9:30 a.m.

JCC Members Present:

Deborah Frye (Chair)

Barbara Quandt-Underwood

Richard Wilson (arrived at 10 a.m.)

Allen Pope

John Wright

Seth Hinshaw (Designee for Joe Habig)

IPLA Staff Members Present:

Trent Fox

Kristin Schwartz

Aaron Bennett

Committee Discussion

Chair Frye decided that since there was not a voting quorum, that the JCC would start with presentations first and then deal with voting matters last.

Presentation from the Indiana State Medical Board

Darren Covington, IPLA, began his presentation by highlighting the history of the Indiana Medical Licensing Board (MLB). The board was formally called the State Board of Medical Registration and Examination that was established in 1897. The name was changed to the Medical Licensing Board of Indiana in 1975. The first licenses that were issued were just for physicians. The Board began issuing osteopathic licenses in 1901. In 1965 the Board began issuing postgraduate training permits. Eventually, fellowship permits were also granted by the Board in 2003.

Under its current composition, the Board no longer oversees the chiropractic or podiatry professions. The Board is comprised of seven members that are all appointed by the Governor. The composition of the Board must not contain more than four members of the same political party. Another requirement is that the Board be composed of 6 physicians (one must be an osteopathic physician) and one consumer member. The members may serve on the Board for an unlimited number of four year terms. The chief function of the MLB is to review and grant licenses to qualified individuals. Mr. Covington also expressed that the MLB oversees all disciplinary action

of physicians, acupuncturists, and genetic counselors, ect. The Board also under very narrow circumstances will investigate license violations.

Mr. Covington took a few minutes to outline the various license types, the main ones being the physician and osteopathic physician. There are approximately 26,000 -27,000 individuals who are licensed to practice medicine in Indiana. A fee of \$250 is required to obtain a license from the MLB. A \$200 fee is then required for renewal every two years. Mr. Covington did mention that Indiana's fees are some of the cheapest in the nation. As a result, many medical practitioners have come to Indiana to apply for their license because it is so cheap. Those in the military are especially drawn to Indiana because they only have to be licensed in one state.

Mr. Covington then proceeded to outline some of the licenses that the MLB issues. The temporary permits are for one year, but are renewable. Residence permits are the most common. Another type are fellowship permits. Mr. Covington explained that the statute concerning the fellowship permits is unclear as to what they exactly do. A foreign graduate in a residency program in another state can receive a fellowship permit for Indiana rotations. The statute does not say what the requirements are for a domestic student.

A teaching permit allows a medical professional to just teach and not to practice medicine. The limited scope permit for a physician or an osteopathic physician allows physicians who are licensed in another state to provide medical services in Indiana for a specific activity or event.

The Board is also responsible for licensing acupuncturists and genetic counselors. Mr. Covington expressed that just because you are a physician does not mean you can practice acupuncture. There are currently about 100 licensed acupuncturists in Indiana. There is also a subset for professional acupuncturists. This designation is for dentists, chiropractors, and podiatrists who want to practice acupuncture. The final license in order to practice acupuncture is the special designated detoxification license. This license allows individuals, who are not licensed acupuncturists, the authority to perform auricular acupuncture to treat alcoholism.

In March the MLB began issuing license for anesthesiologist assistants. This brand new license allows hospitals to save money while at the same time providing quality care. The main impetus for this license was that rural areas often do not have the resources to have enough anesthesiologists on staff. One anesthesiologist can oversee four assistants at a time. Indiana was the 17th or 18th state to allow licenses for anesthesiologist assistants. Two new licenses are soon to be approved. The diabetes educator license has a May hearing and the certified direct entry midwives will have a hearing later this year.

Mr. Covington then moved on to briefly discuss investigations conducted by Board. The Board has the opportunity in the past to investigate licensing violations in very narrow circumstances. Such investigations are usually conducted because of renewal fraud,

failure to complete death and birth certificates, and terminated pregnancies. Fines for violations go into the consumer assistance fund, which has approximately \$33,000 in the fund.

The MLB is unique because it has committees. They are fairly independent, but the main oversight is the rulemaking function. They can recommend rules, but the Board adopts them.

At this point Mr. Covington concluded his testimony. The floor was then open to any question the committee members might have for Mr. Covington.

Mr. Pope stated that the fees for individuals to obtain their licenses are very reasonable. He stated that because the fees are so low, it really attracts physicians to Indiana. Mr. Pope asked Mr. Covington about the workload due to the high demand of licenses. Mr. Pope also asked about individuals that obtain their license in Indiana and then go to a different state. Mr. Covington first answered the question concerning the workload. He stated that there are four customer service representatives that do a great job of processing requests. Once all paperwork is submitted, it usually takes one business day for the license to be issued. Mr. Covington was not sure as to how many individuals have licenses in Indiana, but then move out of the state.

Mr. Wright asked a question concerning the medical corporation licensure as to what purpose it serves. Mr. Covington responded that it is not a license, but a registration. The professional corporation registration ensures that one of the shareholders is an active Indiana physician, and all shareholders have to be physicians.

At this point in the presentation Dr. Bharat Barai, a board member of the MLB, was allowed to give testimony. He stated that the MLB does an important job of trying to make sure physicians are well qualified to serve the people of Indiana. He went on to add that when some of them cross ethical boundaries, the MLB will make sure the citizens of Indiana are protected. He stated that he has served for 16 years on the Board. From his time on the Board, he believes they do a commendable job of trying to protect the citizens of Indiana from unscrupulous physicians.

Dr. John McGoff, MLB member, was also allowed to provide testimony on this subject. He stated that the MLB promulgated rules to provide a safer medical environment for the people of Indiana. He pointed to the opioid prescribing rules that have been recently promulgated as an example of the proactive stance of the MLB.

Ms. Underwood asked how the MLB compares to other states. How much is the MLB involved in suspension activities?

Dr. McGoff stated that he would defer that question to Darren. Mr. Covington stated that the MLB works with Attorney General's office and they suspend as needed.

Mr. Covington added that there are approximately 28,000 licensees, and in comparison there are only about 40 complaints a year.

Ms. Underwood asked about the process to suspend a license and the length it takes to complete such an action.

Mr. Covington first stated that the Board does not have the authority to investigate complaints unilaterally. They are investigated by the AG's office. If the AG's office believes a violation has occurred they can file an administrative complaint. The length depends on the nature of the case. The AG's office may file a petition for a suspension so they can continue investigating.

Dr. McGoff finished his testimony by stating that Indiana has one of the cheapest license fees around. However, some doctors do not stay in Indiana. They only get their license here because it is inexpensive.

Reports from Medical Profession Stakeholders

Libby Cierzniak began her presentation on behalf of the Indiana Society of Anesthesiologists. She began by stating that Indiana's newest license is the Anesthesiologist Assistants (AA) licensure. The legislation that authorized the AA's passed in 2014 and it required the MLB to promulgate rules about licenses for AA's. The rule was adopted by the MLB in December of 2015. It is an entirely new and highly paid healthcare profession that was previously illegal to practice in Indiana. Before this licensure, it would have been a felony for an AA to administer an anesthetic in Indiana. SEA 233 removed this restriction.

She stated that the passage of SEA 233 will hopefully address any shortages the state may face when comes to Anesthesiologists. The rule that was adopted by the MLB mirrors what other states already have in place. The Anesthesiologist can provide service to up to 4 patients under the AA model. However, the Anesthesiologist remains responsible for the AA's actions. The AA's must have a significant amount of training. They must graduate from a master's program that is accredited. The program must also be in collaboration with a university that has a medical school. There are currently only 10 accredited programs; IU is currently exploring the possibility of starting such a program.

Ms. Cierzniak stated that the AA training is very similar to what a physician assistant must go through, but is more specialized. She also outlined the certification requirements for AA's. For an AA to practice in Indiana, they must pass a national exam that is prepared by the National Commission for Certification of Anesthesiologist Assistants (NCCAA). In order to maintain their certification they must recertify every 2 years. They also need 40 hours of continuing education. In addition to these requirements, they must pass a recertification exam every 6 years.

Ms. Cierzniak at this point provided a chart of states currently giving licenses for AAs. There are only 2 states where a license is not required. She noted that the best practice is a licensure requirement. AA's are licensed because it's necessary to protect patients. Ensuring AA's have the requisite training and no disciplinary problems is necessary. Anesthesia services are safer than ever before, but there are still inherent risks. She then

provided an article that describes what happens when one goes under anesthesia. The individual administering the anesthesia is basically keeping the patient alive.

Ms. Cierzniak raised a concern about certification versus licensure. The law was originally approved with overwhelming support in 2013. It was rolled into legislation with many other licenses that were unnecessary. As a result, the bill was vetoed. The Indiana Society of Anesthesiologists worked with Governor's Office to pass the current version. The current license is regulated directly by MLB. There is no AA committee and there may be a need to have their own committee at some point, but not currently.

Ms. Cierzniak conclude her presentation. The floor was open to questions by committee members. Dr. William McNiece, Indiana Society of Anesthesiologists (ISA), provided the answer to the question Chair Frye asked concerning the certification of AA's. Dr. McNiece stated that there are no AA's in Indiana that are currently practicing under the certification.

Col. Wilson asked if there was a ratio of assistants to Anesthesiologists. Dr. McNiece stated that the max ratio is four to one. An AA performing their assigned duties will do so under the direction of the Anesthesiologist. An Anesthesiologist might oversee four AA's at one time. This is why it is important for them to be well trained. An Anesthesiologist must be involved for the initial assessment, and they must have availability afterwards in case of an emergency. An Anesthesiologist begins, but an AA can oversee the rest.

Chair Frye asked how many of the ten AA programs are in Indiana. Ms. Cierzniak informed Ms. Frye that there are no programs currently in Indiana. She also stated Indiana University was looking into the possibility of starting one.

Mike Rinebold from the Indiana State Medical Association (ISMA) began his presentation to the JCC. After he had given information on his background, he proceeded to provide information about ISMA. ISMA was founded in 1849 with the expressed mission to help state physicians provide the best possible healthcare to patients. The ISMA provides management services, including advocacy regarding practice and regulation on health and medical issues. There are also key interactions with the ISMA and the MLB.

Mr. Rinebold progressed to outlining why Indiana is very favorable in terms of application fees. Military doctors are especially friendly to Indiana, because of the low licensure fees. The percentage of revenue generated through physician fees equals or could double the total budget for PLA during the budget cycle. Indiana is also one of the best in the country for medical malpractice for both physician and patient. This is a recruitment tool that brings physicians into the state. Current estimates bring the number of physicians in the state to about 14,000-15,000. He also stated the he recommends physicians be a qualified provider if they practice in the state. Otherwise, physicians who practice outside of this have uncapped liability. Approximately 61,000 jobs can be attributed to physicians providing care. The range of salaries for physicians depend on specialty. Salaries can range from \$150,000 to \$500,000.

Mr. Rinebold preceded to provide information about residency programs in Indiana. There are just under 400 residency slots available for incoming residents. In comparison there almost 500 medical students trained Indiana. Research shows that about 50-55% of students trained here in Indiana will stay. It is also estimated that each resident will generate over \$200,000 of economic benefits to the surrounding communities. Medical schools have been called to increase enrollment by 30%. The Legislature is also working to increase residency slots. The minimum licensing requirement is one year of residency before licensure. There are approximately 90.5 physicians per 100,000 people. Indiana is closer to 50 per 100,000 and the goal is to make it to 100 per 100,000.

Mr. Rinebold offered some recommended changes for the JCC to consider. One suggestion would be to adjust the establishment of a quorum. Since many members of the MLB are spread out over the state, it is hard to establish a quorum. The Legislature does allow for participation through telephone. It may be possible for members to participate via video or audio technology. This course of action should only be used under certain circumstances. Mr. Rinebold also strongly recommends that room W064 be equipped with audiovisual technology. It is difficult for those sitting in the audience to hear when the air conditioner comes on. Because of the open door law, he suggest that the room be equipped with audiovisual equipment. He also recommends that the meetings be broadcast online so that medical students and residents can learn from the proceedings.

In terms of the funds needed for these changes, the MLB may have funds to accomplish the audiovisual endeavor. Mr. Rinebold believes the license fees are adequate. He did state that because credit card fees are not currently included in the fee that they should be absorbed by the agency.

Before Mr. Rinebold completed his presentation he briefly touched on the Interstate Licensure Compact (ILC) and the complaint process. In regards to the ILC, ISMA will have decided by the end of the year about whether Indiana should participate. When a complaint has been filed by a consumer, it may lead to opening an investigation. The consumer should contact the MLB or AG's office. When a complaint is filed at the MLB, it usually results in a personal appearance. The AG's process is confidential and the MLB route could cause issues for the physician. ISMA would recommend that protocol be adopted to prevent undue burdens on doctors.

Seth Hinshaw asked how many residency slots there are compared to graduates. What is the Legislature doing to help?

Mr. Rinebold replied that the Legislature is exploring new options. This would give opportunities for hospitals to create consortiums to create residency slots. The Ft. Wayne IU center is working on doing this. He also mentioned that 55% of IU students matched in Indiana. Students will leave for various reasons, but 75% will stay when they complete their residency in Indiana.

Mr. Hinshaw also inquired about how many of those who leave the state are leaving because they did not match in a residency program.

Mr. Rinebold stated that those who do not match will have to sit out a year and try to rematch. There are many reasons as to why some may not match. He stated that there is a need for more training opportunities, especially in the primary care setting.

Col. Wilson asked if the residency programs are spread out broadly across disciplines.

Mr. Rinebold responded that they are. He said that if you look at specialties there are about 23-24 who have boards that certify. He highlighted the fact that psychiatry is limited as an example.

The next presenter was Brian Tabor from the Indiana Hospital Association. He stated that he has heard positive feedback about the effectiveness and efficiency of the MLB. He thinks it is a highly functioning board and believes it plays an important role in guaranteeing the security of patients and as well as the quality of care. He does not believe it should be combined with other agencies. He recommends that it should remain its own entity.

One suggestion he made was for the JCC to consider the Interstate Medical Licensure Compact. The compact would allow an expedited licensure process. With increased coverage comes an increased demand. Currently, twelve states have already joined the compact. Physicians in states that have adopted the compact can have licensures in other states in addition to their home state. While the compact helps expedite the process, it will not take away the autonomy of the MLB or lessen the authority of the Legislature to regulate the practice of medicine in Indiana.

Col. Wilson inquired about expanding the residency programs in Indiana. Mr. Tabor responded that his organization was extremely supportive of the expansion. He went on to add that such expansions will have a great impact. There are some very exciting models in which underfunded communities could see enhancements. He cited Evansville hospitals as an example. There are programs taking place there that have given residents more opportunities.

Chair Frey asked if other partner hospitals are looking at expansion. Mr. Tabor responded that there are conversations taking place in Northwest Indiana. He additionally added that expectations will have to be adjusted because it is always dependent upon the area.

The final presenter was Dr. Risheet Patel of the Indiana Academy of Family Physicians (IAFP). The IAFP represents more than 2,500 members. From a national perspective, family physicians provide a majority of care to underserved populations. Primary care is important at the local level.

The IAFP also supports the health of state and local economies. The median compensation for physicians is about \$220,000 per year. Over 18.2 billion has been

generated from physician-based revenue, which has resulted in many wage and tax benefits. The MLB's efficiency has improved the quality of physicians who practice in the state. Dr. Patel recommended that the MLB should remain its own board. The IAFP believes that the MLB should always include a primary care physician as a member. They also believe it is important for members of the MLB to be fairly compensated.

When it comes to the licensing structure, IAFP has no recommended changes. They also view continuing medical education (CME) as vital. Dr. Patel stated that the medical profession itself should maintain responsibility for setting CME requirements. There are national boards that govern each specialty and they should determine the CME. Dr. Patel gave no recommendation for the licensure fees. The members of IAFP, however, believe the fees are fair. He did recommend that the fees should remain with the Board to ensure the proper working of the board. The fees could also be used for educating physicians, or for compensation for board members.

Col. Wilson asked a question concerning whether or not the MLB should have oversight of CME programs and not the national boards for each specialty. Dr. Patel stated that doctors have their own requirements as board certified physicians that they have to fulfill.

Col. Wilson asked if those standards are acceptable for the MLB. Dr. Patel stated that they were acceptable.

Break

After Dr. Patel finished his presentation, Chair Frye suggested that the committee take a short break instead of lunch so they could finish early. The committee agreed and the committee was placed into recess at 11:00 AM. The committee reconvened at 11:10 AM.

Presentation from the Indiana Attorney General's office re. Medical Board

Mr. Pope started his presentation by explaining the charts depicting the numbers he was explaining were distributed. The first chart illustrates all complaints received by the AG's office. The second chart breaks down the findings of those complaints. The chart shows the investigations that have been completed based on the complaints that were received. A number of the complaints end up in the litigation phase.

Mr. Pope stated that the members should not try and make the numbers add up because the complaints processed are not necessarily received in the year that they are listed. The chart just gives an idea of trends and percentages. The complaints that have been received have substantially increased over the last eight years. They did drop a little last year. The complaints peaked at 638 in 2014. In 2015 the total number of complaints received only reached 565.

Mr. Pope then stated that the "investigations completed" chart is the most complicated. The classification of initial allegations can be found across the top. Under "alleged

violations” can be found the professional incompetence category. This category yielded a total of 894 over an eight-year period. The “litigation file opened” category is the source for the pie chart, which shows the results of the litigations.

Col. Wilson asked a question regarding whether an investigation can be attributed to more than one outcome. Mr. Pope stated that he chose the most serious sanction and classified the matter under that. With that in mind, more than one thing may have occurred in the investigation, but only the most serious one is listed for categorization purposes.

Mr. Pope briefly gave highlights from the pie chart. He stated the revocation is the most serious consequence: thirty-five of those have occurred. Additionally, sixty-four suspensions and ninety-seven probations have been handed down. Some of the less serious sanctions are monetary penalties.

Col. Wilson asked what the designation “closed with red flags” means. Mr. Pope stated that for most of the cases listed under this category, the sanction occurred in another jurisdiction. The AG’s office can still impose sanctions. In some cases, individuals that fall under this category are not even licensed to practice in Indiana. Because of this, IPLA can place a flag on them to ensure that any attempts to receive a license in Indiana are reviewed. Mr. Wright asked if any particular area receives more complaints. Mr. Pope responded that anything involving the prescription of drugs usually has the highest number of complaints filed. Mr. Wright asked if that was true across all specialties. Mr. Pope stated that he wanted to be careful about how he described doctors. Usually overprescribing falls into the specialties of primary care physicians and pain specialists.

Mike Rinebold of the ISMA was asked to offer his opinion on the question. He stated that from his observations those specialties mentioned by Mr. Pope are the highest. He did suggest that anesthesiologists that have crossed over into pain management can have high rates of litigations as well.

Ms. Underwood asked where overprescribing would appear in the chart. Mr. Pope responded that overprescribing could be classified as unprofessional conduct, or under drug/alcohol abuse. He stated that there is some inconsistency when it comes to classification because there currently is no separate classification for overprescribing.

Ms. Underwood asked how long it take for someone to be disciplined when a doctor is involved in overprescribing.

Mr. Pope explained that it can be a matter of a months or years. It depends on the nature of the allegation and the preceding investigation. Such investigations are not performed in a vacuum and they frequently involve more than one agency. The process can sometimes be very complicated and sometimes search warrants are involved.

Col. Wilson remarked that in the earlier presentation there was discussion about making the AG’s office the primary point of entry for complaints. The reasoning behind this was

to avoid a public appearance before the MLB, which could do harm to the medical professional's reputation if information about the complaint was discussed. Is this something the AG's office would support? Mr. Pope stated that this was not something he was qualified to answer:

Col. Wilson asked if this was something the AG's office could do.

Mr. Pope explained that there are a lot of matters that the AG's office does not have to investigate because they are resolved quickly in the personal appearance format. The additional work load probably would not be too severe because such cases are usually easily resolved. However, if the AG's office was made the primary point of contact for all cases, there could be a slowing of the process. He mentioned that there is a license status called "valid to practice." This status does not impact the physician's ability to practice, but it will impact insurance premiums. Instead, if the process was handled during the personal appearance, there is no "valid to practice" issue.

Mike Rinebold interjected that if a physician has a personal appearance scheduled before the board, it comes up during renewal time. The MLB will know if there is a complaint pending during the renewal process. The valid to practice classification causes a disclosure that would not otherwise have to happen.

Mr. Covington explained that the MLB has five actions when it comes to licenses: renew, probation, renew and file complaint, and valid to practice. In order to place an individual on probation or make it valid to practice, a personal appearance is required by statute. He added that there has been some case law that has come out suggesting that if the MLB was aware of licensing violations and they renewed anyway, then that would preclude further discipline afterwards. Mr. Covington added that the valid to practice is a deferral on the decision to renew or not to renew. It is simply a holding pattern for the MLB until they get more information. The complication comes when other entities outside the MLB see that status and do not understand what it indicates.

Mike Rinebold added that there are cases where it is to the physician's benefit to be under the valid to practice status for a short time. It allows the physician, MLB, and the AG's office to work through the process together.

Col. Wilson stated that he would like to be able to make a recommendation to the Indiana General Assembly to fix this issue. He believes it to be unfair. Chair Frye asked how many physicians have a valid to practice status right now. When Mr. Covington prepared the report for the JCC, there were 71.

Review & Adoption of the Agenda and October 26th Meeting Minutes

Chair Frye explained that the JCC would now establish a quorum for the purpose of voting. With four voting members present, a quorum was established.

Chair Frey asked that each member review the minutes from the October 26, 2015 meeting.

John Write moved to adopt the minutes and Seth Hinshaw seconded. Without further discussion the committee unanimously voted to adopt the minutes.

Discussion and Vote re. Voluntary Registry Fee

Chair Frye asked that the Committee continue the meeting without a lunch break. The Committee agreed and they moved to the next order of business.

Chair Frye referenced the copy of HEA 1303-2015 provided to the members. It establishes a voluntary registry. The Committee's business today is to set the fee for the Professional Licensing Agency (PLA) so the registry can be established. Chair Frye allowed time for the Committee to review the act.

Chair Frye explained that the Committee needed to establish the fee that would be charged to those who wish to be registered. The PLA has the ability to review up to five applications from entities who want to participate. Right now the PLA only has one organization that has expressed interest. Before the PLA can move forward to promulgate rules, the Committee needs to establish the fee at fifty dollars, which corresponds to the Interior Design registry professional fee. In order to be consistent and meet PLA's needs to maintain the registry without being burdensome, the number for Committee consideration is fifty dollars.

Col. Wilson asked how the number was chosen and wondered if it was simply because of the Interior Design registry's fee.

Chair Frye explained that the number maintains consistency in registry fees at the PLA, and the majority of the work is with the IT department. Fifty dollars was what was established for Interior Design to maintain the registry, and the same has been suggested for this registry because it is very similar. This is for the processing of the application.

Col. Wilson observed that in order to apply for the application this would be the fee. In order to get the certification they would pay the entity?

Chair Frye said that is the case.

John Wright asked if the fifty dollar fee was also the renewal fee.

Chair Frye explained that it is a two-year renewal cycle with a \$50 fee every at each renewal.

Colonel Wilson said the fee would really be twentyfive dollars per year. He thought that seemed fair, and he noted that the registry is voluntary.

Colonel Wilson moved to adopt the fifty dollar fee. John Write seconded the motion.

The Committee voted unanimously to adopt the fifty dollar fee for the voluntary registry.

Concluding Discussion by the Committee

Col. Wilson apologized for his tardiness. He then asked a brief question about whether his provision regarding capital funds could be considered in one of the upcoming meetings.

Chair Frye explained she was not the chair at the time that the capitol funds provision was presented and that she would look in to it.

Col: Wilson stated that the JCC could possibly look at the provision at the June meeting.

Adjournment

Col. Wilson proposed a motion to adjourn at 11:49 AM, and Mr. Hinshaw seconded. Without opposition, the motion carried and the meeting was adjourned.

NEXT SCHEDULED MEETING

June 2, 2016

at 9:00 AM

Indiana Government Center-South

402 West Washington Street, Conference Room C

Indianapolis, IN 46204